

ROSENDO MAGLASANG, PETITIONER, VS. BLAS OPLE, SECRETARY OF LABOR, NATIONAL LABOR RELATIONS COMMISSION, FRANCISCO ARNADO, RODULFO CAPITAN, AND MATEO MAPALO, RESPONDENTS.

G.R. No. L-38813. April 29, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

The invocation of the procedural due process guarantee, more specifically the absence of a hearing, invariably calls for the most careful inquiry. This notwithstanding, petitioner, in this certiorari proceeding to annul and set aside the order of Secretary of Labor Blas Ople affirming the challenged actuation of respondent National Labor Relations Commission awarding private respondents[1] a sum of money in view of their having been dismissed contrary to the Termination Pay Law,[2] does not argue from a position of strength. The only pleading in support of his pretension is his petition, and the only allegations therein admitted are the various steps taken all the way up to respondent Secretary of Labor. Even that circumstance has an aspect none-too-favorable for petitioner as it would indicate that he was previously accorded the opportunity to ventilate his alleged grievance. The other allegations are admitted subject to qualifications, which go far in demonstrating the weakness of the imputation of unfairness or arbitrariness. There was on his part no reply to the answer of private respondents; there was no refutation then of their assertions injurious to his claim. Thereafter, he did not file a memorandum that could perhaps shed additional light on the subject. In the light of the above, the liability of petitioner, predicated on an illegal dismissal, appears to be clear, much more so considering the more stringent requirements in the present Constitution as to social justice[3] and protection to labor.[4] There is no warrant for granting the remedy sought. certiorari does not lie.

1. What do the undisputed facts show? Petitioner alleged and private respondents admitted that the complaint for underpayment on the part of the latter and the former's application for clearance for the purpose of terminating their employment of private respondents were assigned to one Attorney Erdolfa Bacolod, of the Cebu regional office of the then National Labor Relations Commission, for mediation and fact finding;[5] that thereafter came an order of the regional administrator finding the dismissal of private respondents illegal, followed by an appeal to the respondent Commission in Manila;[6] that there was on the part of private respondents a motion for the execution of judgment and the dismissal of the appeal interposed by petitioner;[7] that there was an opposition to respondents' motion for execution of the judgment, based on the ground as set forth in a motion of petitioner that it was void;[8] that respondent Commission denied the appeal of petitioner;[9] and that on or about November 7, 1973, petitioner filed his appeal with the respondent Secretary of Labor, who on March 18, 1974, denied the same and ordered the immediate execution of the award of respondent Commission.[10]

It is thus apparent that even granting the absence of any hearing at the stage of mediation and fact finding, petitioner was afforded the occasion to explain matters fully and present its side of the controversy twice, the first time in his appeal with respondent Commission and thereafter in the review conducted by respondent Secretary of

Labor. It would follow that the objection premised on lack of respect for the due process guarantee lacks support in the record. *Demaronsing v. Tandayag*[11] is relevant. There, a similar contention as to the lack of a hearing was raised. This is how it was disposed of in the opinion: "Even on the assumption then that the issuance of the writ of preliminary injunction was vitiated by the grave infirmity thus alleged, still the fact that in at least four separate occasions thereafter he was heard through counsel on the matter would suffice to dispose of the objection thus raised. So it has been from *De Borja v. Flores*, a 1935 decision. The relevant excerpt from *Batangas Laguna Tayabas Bus Company v. Cadio* makes that clear. Thus: 'As far back as 1935, it has already been a settled doctrine that a plea of denial of procedural due process does not lie where a defect consisting of an absence of notice of hearing was thereafter cured by the alleged aggrieved party having had the opportunity to be heard on a motion for reconsideration. "What the law prohibits is not the absence of previous notice, but the absolute absence thereof and lack of opportunity to be heard." There is then no occasion to impute deprivation of property without due process where the adverse party was heard on a motion for reconsideration constituting as it does "sufficient opportunity" for him to inform the Tribunal concerned of his side of the controversy. As was stated in a recent decision, what "due process contemplates is freedom from arbitrariness and what it requires is fairness or justice, the substance rather than the form being paramount," the conclusion being that the hearing on a motion for reconsideration meets the strict requirement of the process.'"[12] As if that were not enough, the very petition contains this admission: "[t]hat during the mediation or fact finding session conducted by Attorney Bacolod, the parties could not agree to an amicable settlement of their respective differences." [13] It cannot truly be said then that petitioner had no chance whatsoever to acquaint the labor officials with whatever defenses he might have to the charge that he was guilty of dismissing private respondents illegally. Under such circumstances, clear and indubitable, the absence of any merit to the failure to abide by the due process standard becomes rather obvious.

2. There is an excerpt from *Florendo v. Florendo*[14] that reinforces the view of the Court. It reads thus: "A semblance of plausibility might have been imparted to the due process argument if the petition *** gave any indication that a meritorious defense could have been interposed if the case were reset for a rehearing, ***. That is not the case, however. All appearances would indicate that [this petition] cannot be distinguished from a tactic dilatory in character. The reality might have been otherwise, but there is nothing in the record from which such a conclusion could be legitimately based." [15] On the contrary, there are facts therein set forth, from the very petition no less, that militate against any claim of possible injustice to petitioner. One of its annexes is the complaint filed by private respondents on March 28, 1973 with respondent Commission at its regional office in Cebu City.[16] It was therein alleged that on March 20, 1973, private respondents complained against their being underpaid by petitioner, who persistently requested that they desist from such action — a move that failed, resulting in their dismissal from employment on March 24, 1973, or four days later.[17] This retaliatory step frowned upon by the law which seeks to protect labor caused, as it should, a finding of illegal termination of employment. So it was declared by the regional office of respondent Commission. If the truth were other than that, both the respondent Commission itself and respondent Secretary could have been duly informed. The record will be searched in vain for even the slightest hint of the above finding being devoid of foundation. Under the circumstances, considering that the award to private respondent dates back to August 1, 1973, the petition cannot be distinguished, to quote *Florendo*, "from a tactic dilatory in character." The due process safeguard, in itself a pledge of fairness and justice, cannot be utilized for such a purpose.

3. A word more. It is not to be expected that there be a repetition of a complaint of this character on the part of management. Such a satisfactory state of affairs will come about if lawyers in the Department of Labor are much more sensitive to the need to observe procedural regularity. If it were thus, as it should be, the beneficiary is not only the employer who, as he ought to, should be allowed the fullest opportunity to resist unwarranted claims but also the employee or laborer involved as there would be no undue delay in the event the verdict favors him. That

is moreover to manifest fidelity to the rule of law. No one then is in a better position to assure that it be so than members of the bar who are connected with the Department of Labor. Their responsibility for the attainment of such a desirable objective is all the greater where the top officials do not belong to the legal profession. It is of the essence that they furnish sound advice on what the law seeks to accomplish and how best to attain it with due regard to procedural due process. To paraphrase Justice Brandeis, for administrators in government discharging quasi-judicial functions, there must be wedded to the zeal in the performance of one's task a heightened awareness of the limits and bounds of one's powers, both in the substantive and procedural sense. The legal order cannot be satisfied with less.

WHEREFORE, this petition for certiorari is dismissed for lack of merit. Costs against petitioner.

Barredo, Antonio, Aquino, and Conception Jr., JJ., concur.

[1] The private respondents are Rodulfo Capitan and Mateo Mapalo. 2

[2] Republic Act No. 1787 (1957).

[3] According to Article II, Section 6 of the Constitution: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."

[4] According to Article II, Section 9 of the Constitution: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

[5] Petition, par. 4 and Answer, par. 1.

[6] Ibid., par. 7 and Answer, par. 1.

[7] Ibid., par. 8 and Answer, par. 1.

[8] Ibid., par. 9 and Answer, par. 1.

[9] Ibid., par. 11 and Answer, par. 1.

[10] Ibid., par. 12 and Answer, par. 1.

[11] L-27057, August 21, 1974, 58 SCRA 484.

[12] Ibid., 489-490. De Borja is reported in 62 Phil. 106; Batangas Laguna Tayabas Bus Co. in 22 SCRA 987. The cases cited in the latter decision are De Borja v. Tan, 93 Phil. 167 (1953); Flash Taxicab Co. v. Cruz, L-15464, March 30, 1963, 7 SCRA 518; and Caltex (Phil) Inc. v. Castillo, L-24657, November 7, 1967, 21 SCRA 1071.

[13] Petition, par. 5.

[14] L-24982, March 28, 1969, 27 SCRA 432.

[15] Ibid., 437.

[16] Annex B.

[17] Ibid., pars. 4 and 5.

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